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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,679	12/06/2005	Thea Gladwin	P20854/DD	3747

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EXAMINER

DOAN, ROBYN KIEU

ART UNIT	PAPER NUMBER
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3732

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/559,679

Applicant(s)

GLADWIN ET AL.

Examiner

Robyn Doan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/6/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 10 recites limitations “the teeth of each comb are shaped with tapering sides on both first and second surfaces” which is not corresponded to the specification.

The disclosure is objected to because of the following informalities: in the amended specification dated 12/6/2005, change “March 16 2003” to –March 16 2004--.

Appropriate correction is required.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features of “the teeth of each comb are shaped with tapering sides on both first and second surfaces” in claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

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number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 10 is objected to because of the following informalities: claim 10, lines 4 change "wider that" to --wider than--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "the widths of spaces" in lines 4, 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the selected teeth" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-14, 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson (U.S. Pat. # 1,977,920).

With regard to claim 10, Robinson discloses a hair clip (fig. 2) comprising two combs (10, 11) and at least one elastic member (20) resiliently to bias teeth (14) into an interleaved arrangement with one another (fig. 6, col. 2, line 58-62), each comb having opposite first and second surfaces (see fig. 3) whereby, when the teeth of the combs are interleaved from opposite directions (see fig. 6), some of the teeth of one comb overlaying and others underlaying the teeth of the other comb and such teeth being biased towards one another, at least some of such overlaying and underlaying teeth interact with one another to form clamps for clamping hair between the two combs (col. 2, lines 78-97). Robinson fails to show the widths of the teeth of each comb being slightly wider than widths of spaces adjacent the teeth and the teeth of each comb

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having tapering sides on both surfaces. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the widths of the teeth of each comb being slightly wider than widths of spaces adjacent the teeth and the teeth of each comb having tapering sides on both surfaces, since such a modification would have involved a mere change in the size and shape of the known component. A change in size and shape is generally recognized as being within the level or ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). In regard to claim 11, Robinson further shows the combs being arcuate shape however fails to show at least the selected teeth being substantially elliptical in cross-section. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct at least the selected teeth being substantially elliptical in cross-section, since such a modification would have involved a mere change in the shape of the component. A change in shape is generally recognized as being within the level or ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). In regard to claims 12 and 13, Robinson shows the essential claimed invention except for the teeth having the substantially same width and the width of the teeth being about .5 to 2mm wider than the width of the spaces between the teeth. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the teeth having the substantially same width and the width of the teeth being about .5 to 2mm wider than the width of the spaces between the teeth, since such a modification would have involved a mere change in the size of the known component. A change in size is generally recognized as being within the level or ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA

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1955). In regard to claim 14, the combs being made of flexible material (col. 2, lines 63, 64).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson in view of Leslie (U.S. Design Pat. # D483,522).

With regard to claim 15, Robinson shows the essential claimed invention except for the elastic member having a plurality of beads threaded into the length of the elastic member. Leslie shows a hair device (fig. 1) comprising two combs connected to each other by a string of beads. It would have been obvious to one having an ordinary skill having an ordinary skill in the art at the time the invention was made to employ the string of beads as taught by Leslie into the combs of Robinson in order to provide aesthetic look to the device.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (U.S. Pat. # RE16,546).

With regard to claims 16 and 18, Parker discloses a hair clip (figs. 2, 5) comprising two combs (a, b) and at least one elastic member (f) to bias teeth of the combs toward each other, Parker also shows method of fastening the hair using the hair clip by inserting one comb into the hair in a first direction, inserting the other comb into the hair in a second direction substantially opposed to the first direction, twisting the combs by distorting at least one comb about an axis substantially parallel to the length of the teeth such that some of the teeth of one comb overlay and others underlay the

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teeth of the other comb so as to clamp hair between the two combs (fig. 5, col. 1, lines 28-36), Parker inherently shows stretching the elastic member (see fig. 5). Parker fails to show selected teeth of the combs being wider than spaces between teeth. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the widths of the teeth of each comb being slightly wider than widths of spaces adjacent the teeth, since such a modification would have involved a mere change in the size and shape of the known component. In regard to claim 17, Parker fails to show the step of rotating one comb relatively to the other, however, it would have been an obvious matter of user's choice by rotating one comb relatively to the other comb.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Morse, Watson are cited to show the state of art with respect to a hair device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robyn Doan
Examiner
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